

FILED
IN CLERK'S OFFICE
US DISTRICT COURT E.D.N.Y.
★ AUG 22 2019 ★

BROOKLYN OFFICE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
JENNIFER GITTLEMAN,

Plaintiff,

v.

COMMISSIONER OF SOCIAL SECURITY,

Defendant.
-----X

DECISION & ORDER
18-CV-1953 (WFK)

WILLIAM F. KUNTZ II, United States District Judge:

Jennifer Gittleman ("Plaintiff"), proceeding *pro se*, filed this social security action on March 30, 2018. *See* Compl., ECF No. 1. Pursuant to this Court's order, Defendant served its dispositive motion for judgment on the pleadings on October 29, 2018. After the Court granted Plaintiff three extensions of time, Plaintiff was to file her response or cross-motion by August 16, 2019. The Court noted "[f]ailure to comply [with that due date] or otherwise prosecute this action will result in dismissal under Rule 41 of the Federal Rules of Civil Procedure." *See* Order dated June 10, 2019, ECF No. 20. To date, Plaintiff has not filed any response or cross-motion.

Rule 41(b) of the Federal Rules of Civil Procedure provide, in relevant part, "[f]or failure of the plaintiff to prosecute or to comply with . . . any order of the court, a defendant may move for dismissal of an action or any claim against the defendant." A district court has the inherent power to dismiss a case with prejudice for lack of prosecution pursuant to Rule 41(b). *See Link v. Wabash R.R. Co.*, 360 U.S. 626, 629 (1962). By failing to respond to Defendant's motion after the Court granted Plaintiff several extensions of time, Plaintiff has violated this Court's orders and has failed to pursue her claim. Therefore, the Court concludes Plaintiff's

noncompliance warrants dismissal, but orders such dismissal be without prejudice given Plaintiff's *pro se* status.

For the foregoing reasons, the above-captioned action is hereby DISMISSED without prejudice for failure to prosecute pursuant to Rule 41(b). The Clerk of Court is directed to close this case.

SO ORDERED.

s/WFK



HON. WILLIAM F. KUNTZ, II
UNITED STATES DISTRICT JUDGE

Dated: August 22, 2019
Brooklyn, New York